

Applicant : Bell et al.
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Attorney's Docket No.: 01194-463001 / 03-211

REMARKS

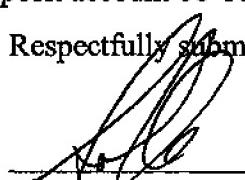
In response to the Office Action mailed April 17, 2007, Applicants cancelled claims 9-13, and 25-31, the non-elected claims in Groups II-IV in the Restriction Requirement mailed February 7, 2006. Claims 1-24 and 32 are pending with claims 3-5, 7, and 17 previously being withdrawn from consideration.

The Examiner provisionally rejected claims 1, 2, 6, 8, 14, 16, and 18-24 under the judicially created doctrine of obviousness-type double patenting in view of claims 1-37 of copending USSN 10/791,103. However, this rejection seems inappropriate. In the present application, the Examiner issued a Restriction Requirement in which a spherical shape (claim 3) was stated as being a separate species from a particle having a shape that is substantially free of a concave region (claim 2). Applicants elected the latter species, and claim 3 remains withdrawn from consideration. Thus, it is inconsistent for the Examiner to now reject, for example, claim 2 under the judicially created doctrine of obviousness-type double patent based on the claims 1-37 in USSN 10/791,103 when these claims require generally spherical particles. However, if the Examiner re-enters non-elected claims 3-5, 7 and 17, which Applicants believe he should because these claims were withdrawn based on a species election and the generic, linking claim (claim 1) has been allowed, then Applicants will submit a terminal disclaimer relative to claims 1-37 in USSN 10/791,103.

Applicants believe the application is in condition for allowance, which action is requested.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,



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Date: _____ June 5, 2007 _____

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